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In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 660

KENNETH L. JONES, PETITIONER

v.

UNITED STATES OF AMERICA

On Petition for a Writ of Certiorari to the United States Court of Claims

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MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

An Act of August 4, 1790 (1 Stat. 138) authorized the issuance by the United States of stock bearing interest of six percent per annum. Two-thirds of the stock so issued was to bear interest immediately; the remaining third was to bear interest beginning in the year 1801. The statute authorized the government to redeem annually up to eight percent of the accrued value of the stock. By an Act of April 28,

1796, Congress fixed the final redemption dates of these two types of six percent stock as 1818 and 1824, respectively. 1 Stat. 458.

On June 15, 1964, petitioner instituted this action in the Court of Claims alleging that he was the administrator of the estate of one Joseph Ball, who had purchased some of this stock in 1791, 1794 and 1797, and who had died without redeeming it in 1821. The court dismissed the petition on the government's motion for summary judgment on the ground that the claim was barred by the applicable statute of limitations.

This decision was plainly correct and does not require review by this Court. The 1796 Act fixed 1818 and 1824 as the maturity dates of the stock, and it is well established that a claim based upon such an obligation accrues, for limitations purposes, when the obligation to repay matures. *Clark* v. *Iowa City*, 20 Wall. 583; *Amy* v. *Dubuque*, 98 U.S. 470. Since 28 U.S.C. 2501 provides a six-year limitations period, petitioner has made his claim more than 130 years too late.[1]

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[1] The first statute providing a limitations period for actions brought in the Court of Claims was passed in 1863. See 12 Stat. 767 (Section 10). It established a six-year limitation period but provided that "claims which have accrued six years before the passage of this act" would not be barred if brought within three years after the statute was enacted. If that provision was intended to apply to claims more than six years old (rather than to claims accruing *within* six years before its passage), the time within which such claims could be made expired in 1866.

Nor is there substance to petitioner's contention that the Act of 1796 did not or could not affect obligations incurred under the Act of 1790. Sections 1 and 2 of the 1796 statute explicitly relate to "funded stock * * * bearing a present interest of six per centum per annum" and "funded debt * * * upon which an interest of six per centum per annum will commence * * * in the year [1801]"—precisely the kinds of stock involved under the 1790 Act. And since the 1790 statute authorized annual redemption of up to eight percent of the stock's accumulated value, the 1796 Act did not unconstitutionally or unfairly abrogate the rights of purchasers of the stock by fixing a final redemption date 22 or 28 years thereafter.[2]

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted.

THURGOOD MARSHALL,
Solicitor General.

NOVEMBER 1965

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[2] Petitioner appears to object, as well, to the Court of Claims' disposition of this case without argument or opinion. The court's order, however, distinctly stated its reason for dismissing the petition, and the court's rules provide that motions for summary judgment may be acted upon without argument. Ct. Cl. Rule 65(b)(2). Petitioner was not entitled to oral argument on the motion for summary judgment where, as here, only narrow issues of law were presented. See, *Federal Communications Commission* v. *WJR*, 337 U.S. 265, 274-277. Compare *Londoner* v. *Denver*, 210 U.S. 373.

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